THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 32287 of 1997

Dated: 21.03.2007

Between:

K. Yadagiri.

.... PETITIONER

AND

The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Hyderabad Region, Secunderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 32287 of 1997

ORDER:

This writ petition is filed seeking to declare the action of the respondents in not reckoning the services rendered by the petitioner on *ad hoc* basis, as Music Teacher in between 06.09.1985 to 30.04.1988, by ignoring the breaks, for the purpose of fixation of pay and other benefits/increments, as illegal and arbitrary.

2. When the matter is taken up for hearing, the learned counsel for the petitioner represented that he has no instructions in the matter and that the bundle has been taken away by the petitioner.

3. The contention of the petitioner, as can be seen from the affidavit, is that he was initially appointed as Music Teacher in the 2nd respondent-School on *ad hoc* basis. He worked in three spells i.e., from 06.09.1985 to 30.04.1986, from 03.12.1986 to 30.04.1987, and from 03.09.1987 to 30.04.1988. His further contention is that taking into consideration his initial appointment, the 2nd respondent-School absorbed him on regular basis from 27.06.1988, and since then he has been working regularly as Music Teacher in the 2nd respondent-School. His grievance is that though his services were absorbed on regular basis, the

respondents have not reckoned the service rendered by him on *ad hoc* basis in between the period from 06.09.1985 to 30.04.1988, for the purpose of fixation of pay, grant of increments and other benefits. Hence the petitioner filed the present writ petition.

4. The respondent-School filed counter affidavit. Reiterating the counter averments, the learned Standing Counsel for the respondents submits that as per the rules, the services rendered by an employee on *ad hoc* basis, followed by break, cannot be counted for grant of increment, and the same was also informed to the petitioner through letter dated 03.07.1995. He further submits that in response to the notification issued by the 2nd respondent-School, the petitioner submitted his application along with other candidates. He was called for interview, and was selected after following the due process, and was appointed on regular basis, but he was not absorbed into service by taking into consideration his initial appointment.

5. A conjoint reading of the contents of the clarificatory letter dated 01.08.1987 and the counter filed by the 2nd respondent-School would show that only in the case of *ad hoc* appointment, followed by regular appointment in the same post, without any break in between *ad hoc* and regular appointment, the services rendered by an employee on *ad hoc* basis are counted for the purpose of annual increment. In the instant case, the petitioner was appointed as Music Teacher on ad hoc basis from 06.09.1985 to 30.04.1988 in three spells, obviously every spell was followed by break for sometime. Since the petitioner's *ad hoc* service was followed by breaks, and he having not been absorbed, but having

been appointed on regular basis in pursuance of a recruitment notification by following the due process, cannot be allowed to contend that the service rendered by him on *ad hoc* basis, intermittently, also has to be counted for the purpose of granting increments.

6. In the circumstances, the action of the 2nd respondent-School in not reckoning the services rendered by the petitioner on *ad hoc* basis as Music Teacher in between 06.09.2985 to 30.04.2988 in three spells, cannot be faulted, and no exception can be taken to the action of the 2nd respondent in rejecting the claim of the petitioner for fixation of his pay and other benefits by granting increments from the date of his initial appointment.

7. The Writ Petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 21.03.2007

sj